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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/671,507 | 09/29/2003 | Young-Kwang Byun | 4653-0105P | 8178 |

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EXAMINER

BOMBERG, KENNETH

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3754

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/671,507 | Applicant(s) BYUN, YOUNG-KWANG | |
| | Examiner Kenneth Bomberg | Art Unit 3754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Receipt is acknowledged of applicant's petition filed January 3, 2005 to substitute drawings. The petition has been forwarded for a decision. The drawing objection is being maintained pending a decision on the petition. Should the petition be granted, the drawing objection will be withdrawn.
2. Applicant has requested in the response filed February 2, 2005 that an action on the merits of the application be issued presuming that the petition to substitute the drawings will be granted. This office action is issued in response to that request.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed invention must be shown or the feature(s) canceled from the claim(s). Specifically the three sheets of formal drawings filed with the application do not correspond to the specification, claims, and abstract or foreign priority document drawings. The foreign priority document drawings include six sheets of drawings, which correspond with the pending application. It appears that the application was inadvertently filed with the incorrect drawings. Applicant is encouraged to view the application drawings. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

Art Unit: 3754

sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 1 is objected to because of the following informalities: In line 1, "The cosmetics" should be changed to --A cosmetics-- to improve the form of the claim. Appropriate correction is suggested.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3754

6. The claim is rejected under 35 U.S.C. 103(a) as being unpatentable over Garris (US 1,591,678) in view of Johnson (US 1,943,893) and Yaneza (US 4,957,125).

Garris teaches of a cosmetics case substantially according to the claim and including:

A cosmetics case (Fig. 1) comprising an upper movable part (19) and a case body (1), the case body (1) mounted with a plug (2) at bottom portion of the case body,

wherein the case has a discharging tube (8) covered with a wetting part (20) and a piston (25) screw-coupled to a screw rod (6), both being secured to the upper movable part (19) and inside of the case body (1); an inner hole (10) formed on top end of the screw rod (6); and a hollow (12) on bottom portion of the inner hole (10) so that the liquid in the case body flows to the wetting part (20) through the discharging tube (8).

Garris fails to teach of:

a cap 60 coupled to the upper part and the inner hole fitted with a spring 42 and a reversing ball 43 according to the claims.

Yaneza teaches on a cosmetics apparatus to cover the bristles (34) with a cap (13) in order to facilitate packing for travel. It would have been obvious to one having ordinary skill in the art to have incorporated the cap (13) of Yaneza into the dispenser of Garris in order to facilitate packing for travel as explicitly taught by Yaneza (see Yaneza column 2, lines 19-21).

Johnson teaches on a cosmetics apparatus to fit an inner hole (10) with a spring (13) and a reversing ball (11) in order prevent the mass behind the ball from drying out.

Art Unit: 3754

It would have been obvious to one having ordinary skill in the art to have incorporated the spring (13) and a reversing ball (11) of Johnson into the dispenser of Garris in order to prevent the mass behind the ball from drying out as explicitly taught by Johnson (see Johnson lines 72-83).

Response to Arguments

7. Applicant's arguments filed February 2, 2005 have been fully considered but they are not persuasive.

As noted above, receipt is acknowledged of applicant's petition filed January 3, 2005 to substitute drawings. The petition has been forwarded for a decision. The drawing objection is being maintained pending a decision on the petition. Should the petition be granted, the drawing objection will be withdrawn.

Applicant notes and traverses the rejection of the claim under 35 U.S.C. 103(a) as being unpatentable over Garris in view of Johnson and Yaneza. The traversal is "Because of the apparent inadvertency noted by the Examiner in connection with the drawings of the present application, the Examiner's rejection could not be realistically applied to the present application for logical reasons." This argument is not found persuasive because the claim is fully understood by the examiner in view of the specification as originally filed and further in light of the proposed substitute drawings, which correspond to the drawings of the priority document. The rejection on art was not based on the erroneous drawings but rather on the understood claim. Applicant has not traversed the rejection on merit and the traversal is based upon an incorrect

Art Unit: 3754

position that the rejection is in some manner based on the incorrect drawing filed with the application.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Bomberg whose telephone number is 571-272-4922. The examiner can normally be reached on Monday, Tuesday, Thursday and alternative Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K.B.


KENNETH BOMBERG
PRIMARY EXAMINER